

DATE: JANUARY 11, 2007

TO: SALTON SEA AUTHORITY (RICK DANIELS)

FROM: DEL RIO ADVISORS, LLC (KENNETH L. DIEKER)

**RE: LOCAL FUNDING ALTERNATIVES
SALTON SEA RESTORATION PLAN**

The purpose of this memo is to lay out, in one document, the potential local funding alternatives that are available to the Salton Sea Authority for use in the restoration of the Salton Sea. Few, if any, of these alternatives are available to any other plan as presented to the State of California Department of Water Resources “DWR”. This memo is to be inserted into the Salton Sea Authority plan pursuant to the public comment period that ends January 16th, 2007.

SALTON SEA AUTHORITY

The Salton Sea Authority (the “Authority”) is a joint powers authority whose member agencies are the County of Riverside, the County of Imperial, Imperial Irrigation District, Coachella Valley Water District, and the Torres Martinez Tribal Nation (“Member Agencies”). The purpose of the Authority is to implement projects for the restoration and revitalization of the Salton Sea and its environs in accordance with federal and state laws. **The Authority has generated a great deal of member, local agency and general public support for its plan to restore the Salton Sea.** To further the purposes of the Authority, local funding sources can provide for the ongoing operation and maintenance costs of certain specific project facilities that the Authority contemplates constructing. Summarized below are a few of the funding alternatives available to the Authority.

INFRASTRUCTURE FINANCING DISTRICT “IFD” (1)

SCOPE OF AUTHORIZING LEGISLATION

We have reviewed the special legislation that authorizes the Salton Sea Authority to form an infrastructure financing district for the restoration of the Salton Sea (Government Code § 53395.9). The section authorizes an IFD “for the purpose of funding the construction of, and purchasing electrical power for, projects for the reclamation and environmental restoration of the Salton Sea”. The grant of authority is broad enough to encompass the construction of currently envisioned structures for the reclamation of the Salton Sea.

The only limitation on that power is that “no public funds accruing to the Salton Sea Authority pursuant to this section shall be utilized for purposes of treating or making potable, agricultural tail waters flowing into the Salton Sea”. This exclusion was added, we believe, to forestall a perceived intent by commercial water treatment operators to treat and sell agricultural tail waters. It is doubtful that the exclusion would be read broad enough to preclude use of IFD funds for the construction of wetlands or other passive structures designed in part to improve water quality flowing into the Salton Sea.

(SEE “NEW LEGISLATION”)

STEPS TO FORM AN INFRASTRUCTURE FINANCING DISTRICT

We have outlined below the required steps for the formation of an Infrastructure Financing District. The process will require a significant amount of time and effort. The Authority is in constant ongoing discussions with the Member Agencies and each Agency has adopted the Authority Plan individually and in cooperation as Member Agencies.

The formal steps necessary for formation of an infrastructure financing district are:

1. Adoption of a resolution of intention to establish the proposed district, describing the boundaries of the proposed district, the type of public facilities proposed to be financed; and fixing a time and place for a public hearing on the proposal (Government Code §53396.10).
2. A resolution of intention is mailed to each owner of land within the district (Government Code §53395.11).
3. Designate and direct the Authority engineer to prepare an infrastructure plan (Government Code §53395.13) that will include the following:
 - a) Shall be consistent with the general plan of the underlying land use jurisdictions;
 - b) A map and legal description;
 - c) Description of public facilities, including proposed location, timing and cost;

- d) A finding that the public facilities are of community wide significance and provide significant benefits to an area larger than the area of the district;
 - e) A financing section, including specification of the maximum portion of incremental tax revenue of affected taxing entities; and projection of the amount of tax revenues expected to be received;
 - f) A plan for financing the public facilities, including a detailed description of any intention to incur debt;
 - g) A limit on the total number of dollars of taxes which may be allocated to the district and a date on which the district will cease to exist;
 - i) An analysis of the cost to the Authority of providing facilities and services to the area of the district while the area is being developed, and after the area is developed, including analysis of the tax, fees, charges and other revenues expected to be received as a result of the expected development;
 - j) Analysis of the projected fiscal impact on the district and the associated development upon each affected tax entity;
 - k) A replacement plan for any units of low mod housing that will be removed or destroyed.
4. The Financing Plan shall be sent to landowners and taxing entities (Government Code § 53395.15);
 5. The Authority's designated official shall consult with each affected taxing entity regarding revisions to the plan (Government Code §53395.16);
 6. The Authority shall conduct a public hearing (Government Code §53395.17);
 7. The Authority shall proceed to hear and pass upon all written and oral objections and may modify the plan (Government Code §53395.18);
 8. If each affected taxing entity has adopted a resolution approving the plan, the Authority may adopt the plan (Government Code §53395.19);
 9. At the conclusion of the hearing, the Authority may adopt a resolution proposing adoption of the infrastructure financing plan and then submit the proposal to qualified electors of the proposed district in the next general election or in a special election to be held. If at least twelve persons have registered to vote, the vote shall be by registered voters of the proposed district. Ballots for the special election may be distributed by mail (Government Code §53395.20); and
 10. The Authority may adopt the infrastructure financing plan and create the district if 2/3rds of the votes are cast in favor (Government Code §53395.23).

COMMUNITY FACILITIES DISTRICTS “CFD” (2)

Under the Mello-Roos Community Facilities District Act of 1982 being Government Code Section 53311 et seq., (the “Mello-Roos Act”), a local agency may levy a special tax to finance certain services and facilities in accordance with the requirements set forth in the Mello-Roos Act. A joint powers authority is considered a “local agency” under the Mello-Roos Act and has all of the authority to accomplish the purposes of the Mello-Roos Act. Government Code §53317.

Operation and maintenance services permitted to be financed under the Mello-Roos Act are limited to: (i) maintenance of parks, parkways, and open space; (2) maintenance and operation of flood and storm protection services; (3) maintenance of school facilities; and (4) operation and maintenance of museums and cultural facilities. Government Code §53313. While the Project contains areas and facilities that could be classified as parks, parkways, open space and flood and storm protection facilities, it also contains facilities and areas that are not classified within those categories. Thus, under current law, the full scope of operation and maintenance costs which the Authority would like to finance could not be funded through a community facilities district without special legislation.

(SEE “NEW LEGISLATION”)

Pursuant to the Mello-Roos Act, the boundaries of the community facilities district can encompass any and all parcels located within the jurisdiction of the Authority. Included parcels are designated by the local agency and need not be contiguous. Special taxes are levied according to a rate and method of apportionment (basically, a formula created to spread the tax fairly among the parcels). The rate and method of apportionment of the special tax may exempt properties such as those owned by public agencies and Indian tribes. No special benefit finding is needed for a particular parcel to be taxed.

Special taxes to be levied in community facilities districts require approval by a 2/3’s majority of the qualified electors, which in the case of the Authority would be registered voters.

ASSESSMENT DISTRICTS (2)

1. Landscaping and Lighting Districts

The Landscaping and Lighting Act of 1972 (the “LLPD Act”), Streets & Highways Code §22500 et seq., permits public agencies to levy assessments for the purpose of maintaining and operating any improvement permitted under the LLPD Act. A public agency is defined as a city, city and county, county or public corporation formed pursuant to a special act for the performance of governmental functions within limited boundaries. Streets & Highways Code §22533. Pursuant to laws governing joint powers authorities, a joint powers authority is a public entity but not a public corporation. Government Code §6507. As such, the Authority would not be able to levy the assessment. The County of Imperial and the County of Riverside (collectively, the “Member Counties”), Member Agencies of the Authority, could each levy the assessment within its jurisdiction and then transfer the funds to the Authority to finance the ongoing operation and maintenance of the Project.

Operation and maintenance costs allowed to be financed by the LLPD Act include costs allocable to improvements for, among other things, public lighting facilities, landscaping, ornamental facilities, park or recreational facilities. Streets & Highways Code §22525. While certain improvements in the Project which need to be financed could be classified into the categories described above, there are improvements, such as the desalinization plant, which would not fit in those categories.

2. Maintenance Districts

Pursuant to Government Code Section 5820 et seq., any City or County may levy assessments to finance the operation and maintenance of improvements. Similar to the LLPD, the maintenance district law does not permit the Authority to levy assessments. Only Cities and Counties are permitted to levy assessments under this law, thus each Member County would need to levy the assessment within its jurisdiction and then transfer the funds to the Authority to finance the operation and maintenance costs of the Project. As there is no limiting definition for the term “improvements,” this law provides broad authority for a City or County to operate and maintain any improvements located within its jurisdiction.

CFD AND ASSESSMENT DISTRICT CONCLUSION

It should be noted that while many of the costs of the operation and maintenance of the Project cannot be directly funded through the use of the CFD or Assessment District mechanisms, we want to point out that these dollars will be used to fund public infrastructure for any new planned development and to some extent the ongoing costs of certain public benefits such as schools, police and fire protection. In addition, should the Authority seek special legislative action to amend the “Mello-Roos Act”, the dollars could be used for the direct ongoing operation and maintenance costs of the Project.

NEW LEGISLATION

Infrastructure Financing District

It is the intent of the Authority to seek special legislation to allow for the funding of operation and maintenance of any facilities contemplated above through the use of tax increment generated as part of the IFD. There are some bond counsel firms that feel as if the public agency can form a project area as part of an IFD and collect tax increment thereto but, to the best of our knowledge, no one has yet to issue bonds using that revenue as the source of repayment. We intend to seek, as part of our legislative package, clarifying legislation that specifically allows for the issuance of bonds as part of the Salton Sea Authority IFD.

Community Facilities District (“Mello-Roos Act”)

The Mello-Roos Act is another practical funding vehicle as it currently could allow the Authority to fully fund some of the operation and maintenance of the Project on its own, without the Member Counties as intermediaries. The Mello-Roos Act could be amended to include operation and maintenance costs for all of the Authority’s improvements. The Authority intends to seek special legislative authority under the Mello-Roos Act to fund the operation and maintenance costs of all of its projects by merely adding a section, limited to the Authority, which expands the permissible items for which special taxes may be used to fund operation and maintenance.

OTHER LOCAL FUNDING SOURCES

The following other local funding sources will require participation by one or more of the Authority member agencies:

Transient Occupancy Tax “TOT”

This is generally a tax charged by a local agency to hotel operators / owners for overnight stays within the agency boundaries. This tax is justified since it can be argued that the transient is using the local public facilities and these dollars will be used to help the ongoing maintenance of the local roads, etc. The Salton Sea is in close proximity to the resort areas of the Coachella Valley. It is anticipated that any new recreational activities will bring with it new hotel and resort developments. It would be the desire of the Authority to collect some TOT for the ongoing maintenance of the Project. Any such agreement would require a tax sharing agreement with either or both member counties (Riverside and Imperial).

Sales Tax

While a City or County has jurisdiction to place a sales tax initiative on the ballot. The Authority does not have such direct ability. However, the Authority will pursue legislative action to allow for the creation of a sales tax district that would allow it to capture all or a negotiated portion of the sales taxes generated through the sale of goods and services within the District Boundaries. The Authority would once again need a tax sharing arrangement with either or both member counties to allow some of these sales tax dollars to remain with the Project.

Community Services District

The Authority is a joint powers agency but could promote the formation of a Community Services District “CSD”. This CSD would be used to provide services to local residents. The fees and charges for services could include a myriad of items such as water treatment rates, sewer treatment rates, impact fees etc. A portion of these fees and charges could be used for the operation and maintenance costs of the Project. A tax sharing arrangement would need to be worked out with the newly formed CSD to flow some or all of this money to the project.

Tribal Gaming Revenues

While we understand that any gaming revenues are the jurisdiction of the Bureau of Indian Affairs and the State of California, it would be the desire of the Authority to seek participation by the local tribes. They will directly benefit from any recreational or gaming activities and we would hope to garner cooperation with many of the tribes that have lands adjacent to the Sea.

Government Grants and Loans

The Authority is seeking grants and loans from the Federal Government and the State of California. It is anticipated that most of this money would be used for direct project costs. We are looking more to the local funding sources for the annual operation and maintenance costs of our Project. However, some additional government money may be available to offset some of these costs.

Research Institutes

It has been suggested that the Authority try to attract various research institutes. A restored Salton Sea could offer a vast array of research possibilities and would allow the Authority to gain some potential grants and loans associated with such research. We could also generate some direct research fees such as licensing fees from these various institutes. No partners have been identified to date but some parties have expressed an interest in this type of program.

RECREATIONAL FEES

It has also been suggested that the Authority pursue some locally generated fees directly tied to the recreational activities that come from a restored Salton Sea.

Boating Tag

The Authority could charge for an annual boating tag fee that could go to offset some ongoing operation and maintenance of the Project.

State Park Fees

This would require negotiation with the State of California. It has been suggested that the State of California would charge a park fee much like it does for the various other state parks. A surcharge could be added to the fee allowing for the Authority to generate some additional funds for operation and maintenance of the Project.

Four-Wheel Drive and Recreational Vehicle Fees

It has come to our attention that several 4WD groups have annual events at the Salton Sea with participation in the thousands. This untapped wilderness is ideal for such outings and could be combined with a state park fee or other license fees. In addition, it has come to our attention that many recreational vehicle folks actually store their vehicles in the Coachella and Imperial Valleys where they can fly in and then bring their vehicle to the Sea for recreational activities.

Airport

The City of Salton City has a small unimproved private airport. The Authority could approach the Aircraft Owners and Pilots Association “AOPA” to help lobby in seeking funding to build a regional or local public airport to attract private pilots from around the country to participate in the various recreational activities. In addition, the Salton Sea is directly adjacent, on the South side, to the Jacqueline Cochran Regional Airport commonly known as KTRM. This airport has two runways with one exceeding 8,500 ft. This fully improved airport that already has several Fixed Based Operators (FBOs) could eventually be established as a regional air transportation facility serving the Salton Sea recreational area.

THE POWER OF LOCAL FUNDING SOURCES (EXAMPLES)

It has been estimated that a restored Salton Sea could promote the development of 100,000 to 250,000 residential units in the vicinity. This memo does not purport to do any projection of new development but rather demonstrates the potential dollar impacts of local funding mechanisms, particularly the Infrastructure Financing District and Community Facilities District related to such development. The tables below, and the attached schedules in Appendix A-1, A-2 and Appendix B-1, B-2, demonstrate the enormous capacity from local funding sources that the Authority can bring to the table to potentially offset the ongoing operation and maintenance.

The table below illustrates the potential revenue for operations and maintenance generated by adding 2,000 new single-family residential units each year over the 50-year life of the IFD (Total Homes = 100,000). (See Appendix A-1 and A-2)

The table also illustrates how the addition of the same 2,000 units of single-family residential development can fund operations and maintenance through the use of the CFD mechanism. (See Appendix B-1 and B-2)

Funding Source	Annual Revenue	Total Revenue
IFD (1)	\$5.3MM - \$444.0MM	\$9.52BB
IFD (2)	\$10.6MM - \$888.0MM	\$19.05BB
CFD (1)	\$3.4MM – \$287.2MM	\$6.15BB
CFD (2)	\$6.8MM - \$574.4MM	\$12.3BB

Notes

- (1) Assumes 2,000 Units Added/Year for 50 Years (Total = 100,000 Units)
- (2) Assumes 4,000 Units Added/Year for 50 Years (Total = 200,000 Units) Net of In-Tract

Some CFD capacity (we assumed ½ already netted from the above numbers) would be used for in-tract improvements (sewers, sidewalks, schools, fire / police protection, etc.) through the issuance of bonds.

The table below shows the potential bonding capacity and net project proceeds available through the two mechanisms should the Authority choose to issue bonds for project construction or expansion instead of operation and maintenance:

Financing Source	Bond Amount	Net Proceeds (3)
IFD (1)	\$3,961,484,091	\$3,486,106,000
IFD (2)	\$7,922,968,182	\$6,972,212,000
CFD (1)	\$2,550,777,443	\$2,244,684,150
CFD (2)	\$5,101,554,887	\$4,489,368,300

Notes

- (1) Assumes 2,000 Units Added/Year for 50 Years (Total = 100,000 Units)
- (2) Assumes 4,000 Units Added/Year for 50 Years (Total = 200,000 Units) Net of In-Tract
- (3) Represents the Net Amount of Bond Proceeds after Funding Reserve Funds and Paying the Costs of the Financing

This memo describes the benefit of economic development to the Project. The numbers become very significant very fast. The problem faced by the Authority is that, much like the line from the movie Field of Dreams “if you build it they will come”, we need help from Federal and State sources or some combination thereof to help finance the upfront costs of the Project. However, we feel confident that, through the use of the local funding sources, the Authority and the member agencies can offset the annual operation and maintenance costs of the Project.

CONCLUSIONS

The Authority has generated a great deal of member, local agency and general public support for our plan to restore the Salton Sea. While many of the other alternatives may cost less, they have environmental impacts that could be potentially negative by their very nature. Our plan can be environmentally positive and provide not only wildlife habitat but a myriad of recreational opportunities. In addition, it does not appear that any of the other plans have a local funding component. While none of the proposed local options can pay for the entire cost of any Project they can pay for most or all of the operation and maintenance of the contemplated facilities.

While many of the other local and state fee alternatives would help to offset some of the annual operation and maintenance costs of the Project, the IFD mechanism offers the most promise and most available direct money for ongoing operation and maintenance dollars. Secondly, the CFD mechanism may provide for a certain amount of backup funding either for ongoing operation and maintenance dollars or in-tract infrastructure. In addition the Authority, in cooperation with the Member Agencies, will work together to utilize any of the other funding alternatives that the Authority cannot do independently.

Any special legislation will incorporate provisions that will allow the Authority to benefit directly from the IFD and CFD funding mechanisms. In addition, through the help and cooperation of our local Member Agencies, we will use all other local funding alternatives available to the Authority and Member Agencies to further our goal of restoration of the Salton Sea. This includes revitalization of wildlife habitat, heading off an environmental disaster while enhancing the recreational opportunities to Californians.

Sources

- (1) Portions Excerpted from Memo Dated April 7th 2004 by Best Best &Krieger LLP
- (2) Portions Excerpted from Memo Dated September 19th 2005 by Best Best &Krieger LLP